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Hearing Date: December 6, 2019 at 10:00 a.m.
Responses Due: November 29, 2019

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7

RS OLD MILL, LLC,

Case No.: 17-22218 (RDD)

Debtor.
-----X

**NOTICE OF CHAPTER 7 TRUSTEE'S OBJECTION TO CLAIM 26-1
FILED BY RS OLD MILLS RD LLC**

PLEASE TAKE NOTICE that, on **December 6, 2019 at 10:00 a.m.**, or as soon thereafter as counsel may be heard, a hearing shall be held in the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601 ("Court") before the Honorable Robert D. Drain, United States Bankruptcy Judge, on the objection of Marianne T. O'Toole, as Chapter 7 Trustee of the estate of RS Old Mill, LLC ("Debtor"), by her undersigned counsel, to claim number 26-1 filed by RS Old Mills RD LLC pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. §§ 105(a) and 503(b) ("Objection").

PLEASE TAKE FURTHER NOTICE that responses, if any, to the Objection must be in writing, conform with the Bankruptcy Code and Federal Rules of Bankruptcy Procedure, state with particularity the grounds therefor and be filed with the Court no later than **November 29, 2019 by 5:00 p.m.** as follows: (I) through the Court's NextGen system, which may be accessed through the internet at the Court's website at www.nysb.uscourts.gov and in portable document format (PDF) using Adobe Exchange Software for conversion; or (II) if a party is unavailable to file electronically, such party shall submit the objection in PDF format on portable media in an

envelope with the case name, case number, type and title of document, document number to which the objection refers and the file name on the outside of the envelope to the Clerk of the United States Bankruptcy Court, Southern District of New York, 300 Quarropas Street, White Plains, New York 10601. A courtesy copy should be simultaneously sent to the Honorable Robert D. Drain, at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601.

Dated: November 4, 2019
Wantagh, New York

LaMONICA HERBST & MANISCALCO, LLP
Counsel to Marianne T. O'Toole, as Chapter 7 Trustee

By: s/ Salvatore LaMonica
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CHAPTER 7 TRUSTEE'S OBJECTION TO CLAIM 26-1
FILED BY RS OLD MILLS RD LLC

Marianne T. O'Toole, as Chapter 7 Trustee ("Trustee") of the estate of RS Old Mill, LLC ("Debtor"), by her undersigned counsel, objects to claim number 26-1 filed by RS Old Mills RD LLC ("RS Old Mills") against the Debtor's estate as a general unsecured claim in the amount of \$13500,000, which was assigned claim number 26-1 ("Claim 26"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") and 11 U.S.C. §§ 105(a) and 503(b) ("Bankruptcy Code") and seeks an Order disallowing Claim 26. In support of this Objection, the Trustee respectfully represents as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 157(a) and 1334.
2. Venue of this case is proper pursuant to 28 U.S.C. § 1408.
3. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (O).
4. This Objection is made pursuant to, inter alia, sections 105(a) and 503(b) of the Bankruptcy Code and Bankruptcy Rule 3007.

BACKGROUND

5. On February 13, 2017 ("Petition Date"), the Debtor filed a voluntary petition for

relief pursuant to Chapter 11 of the Bankruptcy Code.

6. RS Old Mills was not scheduled as a creditor of the Debtor on its Schedule E/F or Amended Schedule E/F. See Dkt. Nos. 3, 64. In fact, RS Old Mills was not formed until **August 8, 2017**, approximately six months after the Petition Date. See Exhibit A.

7. At a hearing conducted on June 4, 2019, the Court determined that conversion of the Debtor's case to one under Chapter 7 of the Bankruptcy Code was in the best interests of creditors. By Order dated June 5, 2019, the Court converted the Debtor's case to a case under Chapter 7 of the Bankruptcy Code on June 5, 2019. See Dkt. No. 102.

8. Marianne T. O'Toole was appointed as the Chapter 7 Trustee of the Debtor's estate. See Dkt. No. 103.

9. By Order dated July 15, 2019, the Court established August 30, 2019 as the deadline to file proofs of Chapter 11 administrative expense claims against the Debtor's estate. See Dkt. No. 126.

10. Pursuant to a Notice of Possible Payment of Dividends and of Last Date to File Claim, October 24, 2019 was established as the deadline to file proofs of pre-Petition Date proofs of claim against the Debtor's estate. See Dkt. No. 133.

11. On October 24, 2019, RS Old Mills filed Claim 26 against the Debtor's estate as a pre-petition claim in the amount of \$13,500,000. A copy of Claim 26 is annexed as Exhibit B. Avrohom Kaufman executed Claim 26 under penalty of perjury. See id. Avrohom Kaufman is the brother-in-law of Yehuda Salamon, the Debtor's 100% owner.

RELIEF REQUESTED AND BASIS FOR RELIEF

12. By this Objection, the Trustee seeks an Order disallowing Claim 26.

13. Section 502(a) of the Bankruptcy Code provides, in pertinent part, that “[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. § 502.

14. Pursuant to Bankruptcy Rule 3007(a), an objection to the allowance of a claim must be in writing, filed with the Court and served on 30-days’ notice.

15. A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. See 18 U.S.C. §§152, 157 and 3571.

16. The Trustee objects to Claim 26, which could not have arisen prior to the Petition Date. As evidenced by Exhibit A, RS Old Mills was only formed on or about August 8, 2017, some 6 months after the Debtor’s case was commenced. Upon information and belief, Avrohom Kaufman is acting at the behest of the Debtor’s 100% owner, Yehuda Salamon, who also filed an unsubstantiated pre-petition proof of claim against the Debtor’s estate.

17. There is no known pre-petition claim of RS Old Mills against the Debtor’s estate. As the record in this case reflects, in September 2017, the Debtor (through Yehuda Salamon) transferred title to certain properties in Rockland County to RS Old Mills which, in turn, transferred title to Suffern Partners LLC, and these transactions are the subject of several contested matters before the Court. RS Old Mills was not formed until after the Petition Date. There are no documents annexed to Claim 26 to support any such claim. Claim 26 should be disallowed.

18. According to the docket sheet and claims register, Claim 26 has not been transferred or amended as of the date of this Objection.

19. This Objection will be filed with the Court and served on at least 30 days’ notice to RS Old Mills.

20. The relief requested is in the best interests of the Debtor's estate. In order for the Trustee to complete the administration of the Debtor's estate and to make distributions from the Debtor's estate, the claims register must be accurate.

21. For these reasons, the Trustee respectfully requests that the Court approve the relief requested in this Objection.

NOTICE/NO PREVIOUS APPLICATION

22. Notice of this Objection will be provided to: (a) RS Old Mills; (b) the Office of the United States Trustee; (c) all parties who filed a notice of appearance in these cases; and (d) taxing and governmental units. The Trustee submits that no further notice is required.

23. Except as set forth herein, no previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE, the Trustee respectfully requests the entry of an Order disallowing Claim 26, and for such other, further and different relief as this Court deems just and proper.

Dated: November 4, 2019
Wantagh, New York

LaMONICA HERBST & MANISCALCO, LLP
Counsel to Marianne T. O'Toole, as Chapter 7 Trustee

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